## REMARKS

Please reconsider the application in view of the above amendments and the following remarks. Applicant thanks the Examiner for carefully considering this application.

**Disposition of Claims**

Claims 1-4, 6, 9, 13, 20-23, 25-29, 31, 34-36, 39, and 43-55 are pending in this application. Claims 1, 20, 39, 52, 54, and 55 are independent. The remaining claims depend, directly or indirectly, from claims 1, 20, and 52.

**Response to Non-Compliant Amendment**

The Examiner asserts that the amendment filed on August 25, 2004 in response to the previous Office Action in the present application was non-compliant. The Examiner points out that the status of claims 45 and 55 should have been labeled as "Currently Amended" and not "Previously Presented." Applicant apologizes for this inadvertent error. The amendments to claims 45 and 55 have been re-presented herein and the claims are shown labeled as "Currently Amended."

**Objections**

Claim 1 is objected to because of minor informalities. Claim 1 has been amended by this reply to correct the informalities in accordance with the Examiner's suggestions. Accordingly, withdrawal of this objection is respectfully requested.

**Claim Amendments**

The claims in the present application have been amended to clarify the present invention recited. The claims in the present application have been amended in view of the Examiner's latest Office Action. It is believed that the amended claims do not raise any new issues for consideration by the Examiner.

**Rejections under 35 U.S.C. § 112**

Claims 1-4, 6, 9, 13, 20-23, 25-29, 31, 39, 43-51, 54, and 55 stand rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The Examiner asserts that the claims contain subject matter which was not described in the specification. This rejection is respectfully traversed.

With respect to claims 1 and 43, the Examiner asserts that the limitation "a method of transmitting and downloading the replacement version of resident software at the receiver/decoder" is not disclosed in the original specification. Application respectfully disagrees with this assertion. Support for this limitation recited in claim 1 may be found, for example, on page 1 and page 21 of the present specification. Page 1 discloses that the invention provides a method for a "receiver/decoder to download code." Page 21 discloses "the downloading of data into a receiver/decoder." Therefore, the method for *downloading* the replacement version of resident software *at the receiver/decoder* is clearly disclosed in the specification. Further, claim 43 recites "at the transmission system" in the preamble. Support for this may be found, for example, on page 5, lines 5-20, of the specification. Page 5 discloses that the limitations of claim 43 occur *at the transmission system*, because the bitstream may include a plurality of instream loaders (*i.e.,* data loaders). Thus, it is clear that the rejected claims recited limitations that are fully supported by the disclosure in the specification. Accordingly, withdrawal of this rejection with respect to claims 1, 43, and associated dependent claims 2-4, 6, 9, 13, and 44-51 is respectfully requested.

Further, the Examiner asserts that the limitation recited in claims 1, 20, 39, and 54, *i.e.,* "the replacement version of resident software comprising a resident loader for replacing the bootstrap loader," is not disclosed in the original specification. Application respectfully points out that support for this limitation may be found, for example, on page 23, line 8 of the specification. Here, the description discloses that the resident loader "complements" the bootstrap loader, but it is clear from the description on page 30, lines 6-17 that the resident loader is actually a replacement version of the bootstrap loader as it "performs subsequent steps in the updating process that would normally be carried out by the bootstrap loader." Further, it is also clear from Figure 13 that the resident loader, if present, is used in replacement of the bootstrap loader. Thus, the rejected claims recite limitations that are fully supported by the disclosure in the specification. Accordingly, withdrawal of this rejection with respect to

independent claims 1, 20, 39, and 54, and associated dependent claims 2-4, 6, 9, 13, 21-23, 25-29, 31, and 43-51 is respectfully requested.

The Examiner also asserts that the original specification does not disclose "the resident software comprising a resident loader for *updating* the instream loader," as recited in claim 55. Again, Application respectfully points out that support for this limitation may be found on page 23, lines 3-14, of the specification. Specifically, page 23 discloses that the resident software may be used to "perform the update instead of the instream loader." If the resident software can *perform an update*, then it is clear that the resident software *updates* the bootstrap loader. Thus, this limitation is fully supported by the specification. Accordingly, withdrawal of this rejection with respect to claim 55 is respectfully requested.

Additionally, claims 31, 39, 43-44, and 51 have been amended to clarify which loader is being recited in the limitations of the claims. Accordingly, favorable consideration of these claims is respectfully requested.

The Examiner has rejected claims 9, 43-46, and 49 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 43 has been amended to correct the antecedent basis issue with respect to the phrase "the transmission system." Claims 9, 44-46, and 49 depend from claim 43. Thus, withdrawal of this rejection is respectfully requested.

**Rejections under 35 U.S.C. § 103**

Claims 34-36, 52, and 53 stand rejected under 35 U.S.C. 103(a) as being unpatentable over EP 680,216 ("Menand '216") in view of EP 680,213 ("Menand '213"). This rejection is respectfully traversed.

The present invention generally relates to a method and apparatus for updating resident software stored in ROM of a receiver/decoder. The method includes downloading an instream loader using a bootstrap loader into the receiver/decoder and downloading an updated resident software using the instream loader. The updated resident software includes a resident loader. The method further includes updating the resident software in the receiver/decoder. The updating of the resident software includes replacing the bootstrap loader with the resident loader.

With respect to independent claim 52, the Examiner asserts that Menand '216 discloses all the limitations except at least one instream loader for loading a replacement version of resident software into a receiver/decoder. However, the Examiner asserts that Menand '213 discloses this limitation. Applicant respectfully asserts that neither Menand '216 nor Menand '213 render the claimed invention obvious. Specifically, Menand '216 discloses an interactive application made up of modules, where the modules contain executable codes or application data (see, *e.g.,* page 3, lines 32-34) to be formed into transport packets. Menand '216 does not disclose a loader that is *divided* into modules with associated data (where the data is associated with the loader modules) such that different loader modules and associated data may be downloaded for hardware operating on different platforms (see, *e.g.,* page 4, lines 6-16 of the present specification). Further, Menand '216 fails to disclose or suggest dividing the resident software into modules. The interactive component data disclosed on page 3, lines 34-35 of Menand '216 is *not* the same as the resident software. The interactive component data only represents the data that is included in each transport packet formed from the modules of the interactive application. In fact, Menand '216 does not even disclose *dividing* the interactive component data. Thus, it is clear that the interactive application disclose in Menand '216 is not equivalent to the software that is divided and associated with the instream loader, as claimed in the present invention.

Moreover, Menand '213 does not disclose an instream loader for loading (*i.e.,* configured to download) a replacement version of resident software *into a receiver/decoder*, as asserted by the Examiner. Menand '213 simply teaches an autostart module that downloads an interactive application in intermediate code to be stored in RAM (see, *e.g.,* col. 6, ll. 32-34 of Menand '213). Because Menand '213 discloses that the autostart module is stored in RAM, it does not make sense for the autostart module to be downloaded into a receiver/decoder. In fact, Menand '213 does not even disclose that the application is loaded into a receiver/decoder. Menand '213 only states that the application is received from the broadcast location and is *stored in RAM* (see, col. 6, ll. 16-18 of Menand '213).

In view of the above, it is clear that Menand '216 and Menand '213, whether considered separately or in combination, fail to render independent claim 52 obvious. Thus, claim 52 is patentable over Menand '216 and Menand '213. Further, dependent claims 34-36 and 53 are

patentable over Menand '216 and Menand '213 for at least the same reasons. Accordingly, withdrawal of this rejection is respectfully requested.

## Conclusion

Applicant believes this reply is fully responsive to all outstanding issues and places this application in condition for allowance. If this belief is incorrect, or other issues arise, the Examiner is encouraged to contact the undersigned or his associates at the telephone number listed below. Please apply any charges not covered, or any credits, to Deposit Account 50-0591 (Reference Number 11345/011001).

Dated: January 11, 2005                          Respectfully submitted,

                                                 By_____
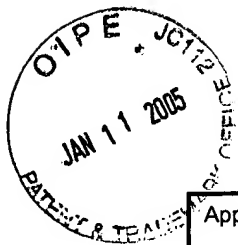                                                 Jonathan P. Osha
                                                 Registration No.: 33,986
                                                 Osha & May L.L.P.
                                                 1221 McKinney, Suite 2800
                                                 Houston, Texas 77010
                                                 (713) 228-8600
                                                 (713) 228-8778 (Fax)

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